

FILED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

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U.S. DISTRICT COURT  
N.D. OF ALABAMA

SOUTHERN NATURAL GAS  
COMPANY,

ENTERED

NOV 30 1999

Plaintiff,

vs.

CV 99-L-0971-S

3.40 ACRES OF LAND LOCATED  
IN MORGAN COUNTY, ALABAMA;  
PAULA PRESTWOOD; DAVID  
DAVIS, et al.,

Defendants.

RE: Morgan County Tract  
No. 75

MEMORANDUM OPINION

I. Introduction

Currently pending before this court is an objection to the Report of Commissioners filed by defendants, Paula Prestwood and David Davis. Under Rule 53(e)(2) of the Federal Rules of Civil Procedure, "the court after hearing may adopt the report or may modify it or may reject it in whole or in part." Likewise, the court's review of the Report of Commissioners is only for clear error. The following paragraphs contain the issues that were discussed in oral argument, the party's objections to the Report of

Commissioners, as well as the court's findings and final judgment.

## II. Discussion and Findings

### A. Damages Awarded for the Permanent Easement

The Commissioners awarded \$36,470 for the permanent pipeline easement. Defendants object generally to the values awarded. The court however finds that defendants have failed to demonstrate any clear error on the part of the Commissioners, and, as such, the Commissioners' findings are approved and adopted as the findings of the court.

### B. Amount Awarded for Temporary Easement

The Commissioners recommended that \$7,277 was appropriate compensation for the temporary construction easement. The Commissioners' findings are approved and adopted as the findings of the court.

### C. Damage to the Remaining Property

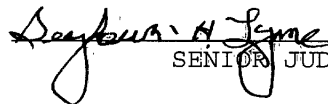
The Commissioners recommended that the landowners be awarded \$12,000 in compensation for the damage to the remainder. Defendants object to the Commissioners' award of remainder damages claiming that the Commissioners failed "to provide any compensation to the Defendant for loss of value to the remaining property." The record does not reflect defendants' claim as the Commissioners did award substantial compensation for remainder damages.

Nevertheless, defendants have failed to demonstrate any clear error on the part of the Commissioners, and, as such, the Commissioners' findings are approved and adopted as the findings of the Court.

### III. Conclusion

The Commissioners have recommended an award to the owners of the property in the above-described easement in the amount of \$55,747. Having concluded that no element of the Commissioners' award is clearly erroneous, the court approves and adopts the Report of Commissioners in whole. In view of the foregoing discussion, a separate judgment will be entered in the amount of \$55,747 as just compensation in favor of the defendants.

DONE this 30<sup>th</sup> day of November 1999.

  
SENIOR JUDGE